

FILED
U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2008 AUG 18 PM 11:02

1 Steven J. Bandawat
2 Patricia Bandawat
3 8502 E. Via De Ventura, Ste. 105
4 Scottsdale, AZ 85258-3264
5 -Pro Se Petitioner -

6 **UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE**

7 STEVEN J. BANDAWAT and PATRICIA
8 BANDAWAT, 8502 E. Via De Ventura, Ste. 105,
9 Scottsdale, AZ 85258-3264

10 Petitioner,

CASE NO. 08-523

11 vs.

12 UNITED STATES, DEPARTMENT OF THE
13 TREASURY, INTERNAL REVENUE
14 SERVICE, 210 E. Earll Drive, MS 5101 PHX,
15 Phoenix, Arizona 85012

PETITION TO QUASH SUMMONS

16 Respondent,

17 OCWEN FEDERAL BANK FSB, 2711
18 Centerville Rd., Suite 400, Wilmington, DE
19 19808

20 Third Party in Interest.

21 Steven J. Bandawat and Patricia Bandawat ("Petitioner"), exercising their right to intervene
22 and petition to quash pursuant to 26 U.S.C. § 7609(b) hereby allege as follows:

23 **I. PARTIES, JURISDICTION AND VENUE.**

24 1. Petitioner are adult residents of the State of Arizona at 8502 E. Via De Ventura, Ste.
25 105, Scottsdale, AZ 85258-3264.

26 2. Respondent, by and through the Internal Revenue Service office at 210 E. Earll
27 Drive, MS 5101 PHX, Phoenix, Arizona 85012, has issued a third party summons ("Summons")
28 seeking records relating to Petitioner, a true and correct copy of which is attached hereto and
incorporated by reference as Exhibit A.

1 3. OCWEN Federal Bank FSB, the Third Party in Interest, is the recipient of the
2 Summons and is, upon information and belief, a corporation doing business at 2711 Centerville Rd.,
3 Suite 400, Wilmington, DE 19808.

4 4. This Court has jurisdiction pursuant to 26 U.S.C. § 7609(h) and venue is proper.

5 **II. GENERAL FACTUAL ALLEGATIONS.**
6

7 5. This Petition addresses the Summons, notice of which was directed to Petitioner
8 dated July 28, 2008. The records sought by the Summons relate to Petitioner's tax returns for the
9 calendar years 2003, 2004, 2005 and 2006.

10 6. Petitioner's tax returns for the calendar years in question were filed with the Internal
11 Revenue Service office in Phoenix, Arizona on August 14, 2008.

12 **III. CLAIMS.**

13 7. Petitioner incorporates paragraphs 1 - 6 above as though fully set forth herein.

14 8. Based on the filing of Petitioner's tax returns, signed under penalty of perjury, for
15 the periods in question, the information sought by Respondent is now within its possession, thus
16 eliminating the need for enforcement of the Summons.

17 9. Respondent has made no determination that further examination of Petitioner's
18 records are necessary, and/or has not notified Petitioner in writing to that effect.

19 10. Under United States v. Powell, 379 US 48, 57-58 (1964), the information sought by
20 Respondent is already in its possession, and there has been no determination by Respondent that
21 any further information is necessary, and Petitioner affirmatively contends that no further
22 information should be required.

23 11. Enforcement of the Summons would amount to the use legal process or procedure
24 primarily to accomplish an ulterior purpose for which the process or procedure was not designed.

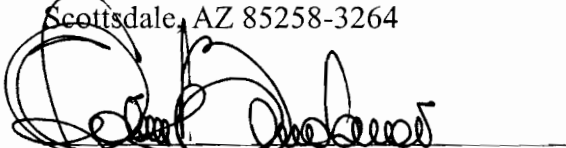
25 WHEREFORE, Petitioner requests relief as follows:

- 26 (a) For an order of the Court quashing the Summons; and
27 (b) For any further relief the Court deems just and necessary.
28

1 DATED this 15th day of August, 2008.

2
3 

4 Steven J. Bandawat, Petitioner
5 8502 E. Via De Ventura, Ste. 105
6 Scottsdale, AZ 85258-3264

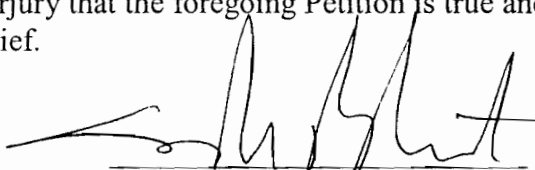
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8 Patricia Bandawat, Petitioner
9 8502 E. Via De Ventura, Ste. 105
10 Scottsdale, AZ 85258-3264

11 **Affidavit and Verification**

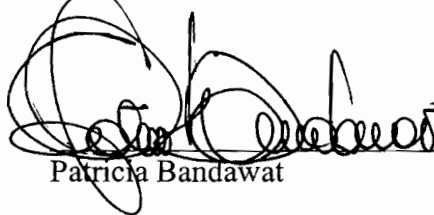
12 STATE OF ARIZONA)
13) ss.
14 County of Maricopa)

15 I declare under penalty of perjury that the foregoing Petition is true and correct to the best of
16 my knowledge, information, and belief.

17 

Date: 8/15/2008

18 Steven J. Bandawat

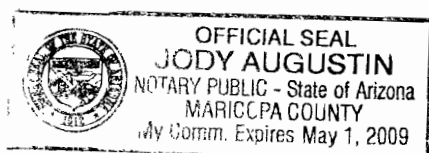
19 

Date: 8/15/2008

20 Patricia Bandawat

21 Subscribed and sworn to before me, the undersigned Notary Public, came Steven J.
22 Bandawat and Patricia Bandawat, and executed this Affidavit this 15th day of August, 2008.

23 My Commission Expires:



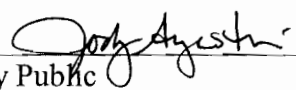
29 
30 Notary Public

EXHIBIT A TO
PETITION TO QUASH



Summons

In the matter of Steven J & Patricia Bandawat, 8502 E Via De Ventura Ste 105, Scottsdale, AZ 85258-3264

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed - Non SBSE Field Area

Periods: Ending: December 31, 2003, December 31, 2004, December 31, 2005 and December 31, 2006.

The Commissioner of Internal Revenue

To: OCWEN Federal Bank FSB

At: 2711 Centerville Rd, Suite 400, Wilmington, DE 19808

You are hereby summoned and required to appear before Larry Taylor, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

The following information in your records regarding mortgage held by you on property owned by Steven J & Patricia Bandawat with addresses of 8502 E Via De Ventura Ste 105, Scottsdale, AZ 85258-3264 and 8215 62nd Pl Ln, Paradise Valley, AZ 85253. Your account number is 100065002 but not limited to this account but all accounts for the owner identified above with SSN of 526-72-2618 and 379-92-7739.

(1) Original amount of obligation (mortgage).

(2) Balance due on obligation (mortgage).

(3) Kind of property involved.

(4) Amount of each payment.

(5) How account is secured.

(6) Date and place instrument was recorded.

(7) Mortgage application.

(8) Last six payments: If done by check, need copy of it and if done electronic transfer I need the name of the financial institute account number, name stated on the account and copy of payment.

NOTE: Personal appearance is not necessary if the requested documents are received by RO L. Taylor by the summons date. Under IRC 7609, this summons is exempt from the notice requirements pertaining to third party summonses.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

210 E Earll Dr, MS 5101 PHX, Phoenix AZ, 85012 (602) 207-8345

Place and time for appearance at: 210 E Earll Dr, MS 5101 PHX, Phoenix AZ, 85012



IRS

Department of the Treasury

Internal Revenue Service

www.irs.gov

Form 2039(Rev. 12-2001)

Catalog Number 21405J

on the 8th day of September, 2008 at 1 o'clock P m.

Issued under authority of the Internal Revenue Code this 28th day of July, 2008

[Signature]

Signature of Issuing Officer

Revenue Officer

Title

[Signature]

Signature of Approving Officer (if applicable)

Group Manager

Title

Part C -- to be given to noticee